

FILED

2013 JUN -3 A 11:01

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY

CUYAHOGA LAKEFRONT LAND, LLC
1370 West 6th Street, Suite 206
Cleveland, Ohio 44113

Plaintiff,

v.

VITA-RAY PRODUCTIONS, LLC
1600 Rosecrans Avenue, Building 1B
Manhattan Beach, California 90266,

and

VITA-RAY PRODUCTIONS II, LLC
1600 Rosecrans Avenue, Building 1B
Manhattan Beach, California 90266,

and

MARVEL STUDIOS, INC.
1600 Rosecrans
Building 7A
Suite 110
Manhattan Beach, California 90266,

Defendants.

CASE NO.

CV 13 008299

JUDGE

NANCY MARGARET RUSSO

**AMENDED VERIFIED COMPLAINT FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTIVE RELIEF**

The Parties

1. Plaintiff is an Ohio limited liability company.
2. Upon information and belief, Defendant, Vita-Ray Productions, LLC ("Defendant

Vita-Ray”) is a corporation organized and existing under the laws of California.

3. Upon information and belief, Defendant, Vita-Ray Productions II, LLC (“Defendant Vita-Ray II”) is a corporation organized and existing under the laws of California.

4. Upon information and belief, Defendant, Marvel Studios, Inc. (“Defendant Marvel”) is a corporation organized and existing under the laws of California.

Background

5. Plaintiff owns a commercial parking lot located at 600 Front Avenue in Cleveland, Ohio (the “Property”).

6. Plaintiff has a nearly 30-year history of contractual relationships with parking lot customers of the Property.

7. The main access to the Property is on West 3rd Street in Cleveland, Ohio.

8. Defendants are shooting portions of a movie in Cleveland, Ohio under the moniker, “Captain America” (the “Movie”).

9. In connection with their production of the Movie, Defendants intend to block traffic from a portion of West 3rd Street in Cleveland, Ohio, for a period of 14 days, beginning on June 1, 2013, as identified in the attached Exhibit A.

10. Defendants’ blocking of West 3rd Street will prevent virtually all parking lot customers from entering the Property.

First Cause of Action – Nuisance

11. Plaintiff incorporates paragraphs 1 through 10 of the Complaint.

12. Defendants’ intent to block Plaintiff’s potential customers from accessing the Property from West 3rd Street will substantially and unreasonably interfere with Plaintiff’s use and enjoyment of the Property and, therefore, constitutes a nuisance.

13. If Defendants are permitted to block Plaintiff's potential customers from accessing the Property from West 3rd Street, Plaintiff's will suffer irreparable injury for which Plaintiff has no adequate remedy at law.

Second Cause of Action – Interference with Prospective Business Relationship

14. Plaintiff incorporates paragraphs 1 through 13 of the Complaint.

15. Defendants have knowledge of Plaintiff's business relationship with its parking lot customers.

16. Defendants' intent to block Plaintiff's potential customers from accessing the Property from West 3rd Street wrongfully interferes with Plaintiff's prospective customers and, thus, its prospective business relationships with them.

17. Defendants' intentional act of blocking Plaintiff's potential customers from accessing the Property from West 3rd Street will cause a termination of the relationship with Plaintiff's customers.

18. If Defendants are permitted to block Plaintiff's potential customers from accessing the Property from West 3rd Street, Plaintiff's will suffer irreparable injury for which Plaintiff has no adequate remedy at law.

Third Cause of Action – Trespass

19. Plaintiff incorporates paragraphs 1 through 18 of the Complaint.

20. On or about June 1, 2013, Defendants entered onto the Property and placed barrels upon it, which actions constitute a trespass onto the Property.

21. Defendants' entry onto the Property was unauthorized.

22. Defendants have neither sought nor obtained Plaintiff's consent to enter onto the Property or to place any items thereon.

23. By reason of the trespass, Plaintiffs are entitled to an injunction ordering Defendants to remove all items placed by them onto the Property and to refrain from entering the Property for any purpose whatsoever without Plaintiff's express written consent.

Likelihood of Success on the Merits and Need for Relief

24. Plaintiff incorporates paragraphs 1 through 23 of the Complaint.

25. Plaintiff is likely to succeed in demonstrating that Defendants' proposed blocking Plaintiff's customers from accessing the Property from West 3rd Street constitutes a nuisance and an intentional interference with the prospective business relationships between Plaintiff and its customers.

26. If Defendants are permitted to block Plaintiff's customers from accessing the Property from West 3rd Street, not only will Plaintiff lose virtually all of its business during the period Defendants intend to block such access and it will, thereafter, be difficult or impossible to restore Plaintiff's competitive *status quo ante*.

WHEREFORE, Plaintiff requests that the Court:

A. Temporarily and preliminarily enjoin Defendants and their respective officers, agents, servants, employees, assigns, affiliates and attorneys, and all persons in active concert or participation with them, from taking any action of any nature whatsoever to directly or indirectly prevent the normal flow of traffic and Plaintiff's prospective customers from accessing Plaintiff's property from West 3rd Street;

B. Temporarily and preliminarily enjoin Defendants and their respective officers, agents, servants, employees, assigns, affiliates and attorneys, and all persons in active concert or participation with them, from taking any action of any nature whatsoever to, directly or indirectly, interfere with or impede the normal flow of vehicular and pedestrian traffic to or from

the entrance to Plaintiff's property on West 3rd Street, or from Lakeside Avenue and State Route 2 to and from West 3rd Street;

C. Direct Defendants and their respective officers, agents, servants, employees, assigns, affiliates and attorneys, and all persons in active concert or participation with them, to remove the barrels and all other items placed by them onto the Property;

D. Temporarily and preliminarily enjoin Defendants and their respective officers, agents, servants, employees, assigns, affiliates and attorneys, and all persons in active concert or participation with them, after removing the barrels and all other items placed by them onto the Property, from entering the Property for any purpose whatsoever without Plaintiff's express written consent;

E. Retain jurisdiction and maintain the status quo pending the filming of the Movie; and

F. Award such other and further relief as the Court may determine to be proper and just, including costs.

Respectfully submitted,



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Attorneys for Plaintiff

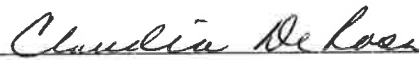
VERIFICATION

I, Fatmir Salillari, an authorized representative of Plaintiff, Cuyahoga Lakefront Land, LLC, having been duly sworn, depose and state that I have read the foregoing Amended Verified Complaint for Temporary Restraining Order and Preliminary Injunctive Relief, and that the information stated therein as factual is true, and those factual matters which are stated upon information and belief are believed to be true.


Fatmir Salillari

STATE OF OHIO :
: ss.
CUYAHOGA COUNTY :

Subscribed and sworn before me on June 3, 2013.


Notary Public, State of Ohio

6-14-14
Commission Expiration Date

CLAUDIA DE ROSA
Notary Public, State of Ohio, Cuy. Cty.
My commission expires June 14, 2014

CERTIFICATE OF SERVICE

On June 3, 2013, a copy of the foregoing Amended Verified Complaint for Temporary Restraining Order and Preliminary Injunctive Relief was sent to the following by regular U.S.

Mail:

VITA-RAY PRODUCTIONS, LLC
VITA-RAY PRODUCTIONS II, LLC
1600 Rosecrans Avenue, Building 1B
Manhattan Beach, California 90266

MARVEL STUDIOS, INC.
1600 Rosecrans
Building 7A, Suite 110
Manhattan Beach, California 90266

Eli Bard, Esq.
Deputy Chief Counsel - Marvel Entertainment, LLC
135 West 50th Street, 7th Floor
New York, New York 10020

A handwritten signature in dark ink, appearing to read "David B. Waxman", is written over a horizontal line.

David B. Waxman
One of the Attorneys for Plaintiff